IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
WEDNESDAY, THE SIXTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR.JUSTICE R.SUBHASH REDDY
WRIT PETITION NO : 247 of 1999

Between:

1. P.Yelisa, S/o. Yohanu,
   Aged about 40 years Occ:Agriculturist.

2. P.Mosaiah, S/o.P.Ankadu,
   aged about 42 years, Occ:Agriculturist.

3. P.Solman, S/o.Davidu,
   aged about 38 years, Occ:Agriculturist.

4. P.Mariyamma, W/o.Bazaranna,
   aged about 36 years, Occ:Agriculturist.

5. P.Devadasu, S/o.Danial,
   aged about 41 years, Occ:Agriculturist.

6. P.Baskar, S/o.Balasundaran(Late)
   aged about 35 years, Occ: Agriculturist.

7. P.Saramma, W/o.Jeorge,
   aged about 30 years, Occ:Agriculturist.

8. P.Yesobu, S/o.Obanna,
   aged about 43 years, Occ:Agriculturist.

9. P.Chitti Babu, S/o.Balasundaram (Late),
   aged about 43 years, Occ:Agriculturist.

10. A.Mariyamma, W/o.Paparayudu,
    aged about 33 dyears, Occ:Agriculturist.

(All the petitioners are R/o.Mitnala Village, Nandyala Mandal, Kurnool District.

..... PETITIONERS

AND

1. The District Collector,
   Kurnool District.

2. The Mandal Revenue Officer,
   Nandyal Mandal, Kurnool District.

..RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or Direction more particularly in the nature of Writ of Mandamus declaring the action of the respondents in visiting the S.No.281 of Mitnala (V), Nandyala(M), Kurnool District, in the 1st week of January, 1999 and directing the petitioners to leave the lands in s.No.281, as illegal, unconstitutional and violative of Articles 14, 21 & 300-A of the Constitution of India and consequently direct the respondents to grant pattas in favour of the petitioners in S.No.281 to an extent of Ac.10.25 cents in Mitnal (V), Nandyala (M), Kurnool District.

For the Petitioners: MR.G.VEERA REDDY, Advocate

For the Respondents No.: GP FOR REVENUE

The Court made the following :

ORAL ORDER

This writ petition is filed seeking a writ of mandamus to declare the action of the Mandal Revenue Officer, Nandyal-second respondent herein, in taking steps for eviction of the petitioners from the land in Sy.No.281, total admeasuring Ac.10.25 cents situated at Mitnala village, Nandyal Mandal, Kurnool District, as illegal.

It is the case of petitioners that they are in possession of the land for the last several years and cultivating the same. Further, it is

their case that they were also granted temporary permission by the Tahsildar, Nandyal vide proceedings L.Dis.No.875/85 dated 06-05-1985 and since then they have been in possession of the above said land. Further, it is their case that their representation is pending consideration for grant of assignment, but, without considering their claim for assignment, the respondent-authorities are taking steps to evict them without conducting any inquiry and also without issuing any prior notice.

In the counter-affidavit filed on behalf of the respondents it is stated that the Executive Engineer, Panchayat Raj, Nandyal, in his letter Rc.A4/184/87 dated 11-04-1987 has requested the Revenue Divisional Officer to alienate Government land measuring Ac.19.00 in Sy.No.281 of Mitnala village in favour of Panchayat Raj Dejpartment for construction of Summer Storage Tank for Mitnala and Gunthanla villages. Further, it is stated in the counter that the Colector, Kurnool forwarded the application of the Executive Engineer and ordered for submission of transfer proposals immediately. It is stated that all the petitioners are encroachers of the land in question and earlier a suit in O.S.No.312 of 1987 on the file of Additional District Munsif, Nandyal was filed, which ended in dismissal by judgment and decree dated 17-11-1992. Further, it is stated that the land is required to be transferred to Panchayat Raj Department, as such, steps were being taken for removal of encroachments by initiating proceedings under the Land Encroachment Act,1905 and final orders were also served on the petitioners on 11-06-1987.

It is submitted by the learned counsel appearing for the petitioners that as petitioners are in possession of the land for the last several years, they are entitled for grant of assignment. But, at

the same time, it is to be seen that the said land in Sy.No.281 admeasuring Ac.19.00 is requisitioned by the Panchayat Raj Department for the purpose of construction of Summer Storage Tank for Mitnala and Gunthanla villages, as such, the petitioners can not continue in possession in view of the final orders passed under the Land Encroachment Act, 1905. Moreover, the suit filed by the petitioners was also ended in dismissal as early as in 1982 and if the petitioners are landless poor, it is open for them to file an application for grant of assignment of other alternative land, but, in view of the averments in the counter-affidavit that the land in question in Sy.No.281 is required for public purpose for construction of Summer Storage Tank, no direction can be issued to consider the claim for assignment also. However, if any such application is filed by the petitioners for assignment of other alterative land, it is equally open for the respondents to consider the same. But, in view of the final orders passed under the Land Encroachment Act,1905 and as much as the permission granted to the petitioners is only for a period of one year, the petitioners have no right to continue in possession.

The writ petition is devoid of merits and same is dismissed. No costs.

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1. The District Collector,
   Kurnool District.

2. The Mandal Revenue Officer,
   Nandyal Mandal, Kurnool District.
3. Two C.D.Copies.